

Message Text

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DEPT PASS LABOR FOR METCALF; FMCS FOR USERY; TREASURY

E.O. 11652: N/A

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SUBJECT: MSAC: WORKING PARTY ON INDUSTRIAL RELATIONS -
MULTINATIONALS

REF: A) OECD PARIS 8975; B) SME/IR/75.2;
C) RE/TUAC/75.1; D) STATE 88439

1. SUMMARY. MANPOWER AND SOCIAL AFFAIRS COMMITTEE
(MSAC) WORKING PARTY ON INDUSTRIAL RELATIONS MET APRIL
22-24 TO CONSIDER, INTER-ALIA, INDUSTRIAL RELATIONS
GUIDELINES FOR MNCS. ALL DELEGATES AGREED THAT IF OECD
DECIDES ON CODE FOR MNCS, SECTION ON INDUSTRIAL
RELATIONS SHOULD BE INCLUDED. SECRETARIAT WILL APPOINT
EXPERTS GROUP TO REPORT ON MNC INDUSTRIAL RELATIONS
ISSUES. WP BUREAU MET SEPARATELY WITH BIAC AND TUAC
APRIL 21. BIAC SUGGESTED THAT IF GOVERNMENTS DECIDE ON
A CODE, CODE SHOULD ONLY PROVIDE VOLUNTARY GUIDE-
LINES. TUAC RECOMMENDED COMPREHENSIVE MANDATORY CODE.
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USDEL CONSISTED OF WILLIAM USERY (WP CHAIRMAN); CARL

ROLNICK, DIRECTOR, LABOR/MANAGEMENT STANDARDS (HEAD OF DELEGATION); PETER HENLE, COUNCIL ON WAGE AND PRICE STABILITY; LAWRENCE BABCOCK, FMCS; AND JAMES METCALF, LABOR DEPARTMENT. END SUMMARY.

2. BIAC MADE FOLLOWING POINTS DURING APRIL 21 MEETING WITH BUREAU:

A. IF A CODE IS DECIDED UPON, IT SHOULD CONSIST OF FLEXIBLE AND VOLUNTARY GUIDELINES USING ICC PROPOSALS AS BASIS;
B. CODE SHOULD ALSO APPLY TO LABOR AND GOVERNMENTS;
C. OECD SHOULD AWAIT COMPLETION (NOV.-DEC. 1975) OF CURRENT ILO MNC STUDY BEFORE MAKING A RECOMMENDATION; ILO AND OECD EFFORTS MUST BE HARMONIZED;
D. CODE MUST NOT DISCRIMINATE AGAINST MNCS VIS-A-VIS NATIONAL ENTERPRISES;
E. TRANSNATIONAL BARGAINING IS "UNREALISTIC" BECAUSE OF DIFFERING CUSTOMS, LAWS AND PRACTICES WITHIN OECD MEMBER COUNTRIES;

F. OECD SHOULD MOVE WITH CARE AND CAUTION TO ALLOW SUFFICIENT TIME FOR WELL-BALANCED REPORT SINCE A CODE "COULD DYNAMITE POSITIVE RESULTS OF PROFESSIONAL CONTRACT NEGOTIATIONS".

G. THE POSSIBILITY OF A UN CODE IS VIEWED WITH "ALARM";

H. BIAC WISHES TO COOPERATE AND PARTICIPATE IN ALL PHASES OF OECD WORK ON PREPARING DRAFT CODE BEFORE THE ORGANIZATION DECIDES WHETHER TO ESTABLISH A CODE.

3. RESPONDING TO BIAC QUESTIONS/COMMENTS, SECRETARIAT SAID: WP WILL COORDINATE TO EXTENT FEASIBLE WITH ILO; OECD MAY DECIDE TO ESTABLISH A CODE BY DECEMBER 1975; CODE WOULD APPLY ONLY TO OECD COUNTRIES; MOST MNCS ARE GOOD CORPORATE CITIZENS; HOWEVER, WP MUST DETERMINE WHAT SHOULD BE SCOPE OF INDUSTRIAL RELATIONS CONSIDERATIONS IF A CODE IS FOUND NECESSARY.

4. TUAC SEC GEN HENRI BERNARD SAID MNCS ARE THE RESULT OF OECD TRADE AND INVESTMENT LIBERALIZATION POLICIES DECIDED UPON WHEN WORLD ECONOMY WAS LESS COMPLEX. GIVEN UNCLASSIFIED

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CURRENT RATES OF INFLATION AND UNEMPLOYMENT, ECONOMIC POLICY INSTRUMENTS MUST BE REVIEWED AND IMPROVED SINCE MNCS ARE BEYOND THE CONTROL OF TRADITIONAL POLICY INSTRUMENTS. TUAC REITERATED PROPOSALS REPORTED IN REF A AND NOTED SECRETARIAT PAPER (REF B) DID NOT ADDRESS ISSUE OF CODE'S ENFORCEMENT. SECRETARIAT STATED WP HAS NEITHER AUTHORITY NOR COMPETENCE TO MAKE A RECOMMENDATION RE ENFORCEMENT, BUT THAT COMMITTEE ON INTERNATIONAL

INVESTMENT AND MULTINATIONAL ENTERPRISES (IME) DOES
SINCE IT HAS CENTRAL RESPONSIBILITY FOR DRAFTING COMPRE-
HENSIVE CODE. TUAC PURSUED LINE THAT WP SHOULD HAVE
RESPONSIBILITY TO REVIEW PUBLIC ACCOUNTABILITY SINCE
INFORMATION IS CRUCIAL TO COLLECTIVE BARGAINING. SECRE-
TARIAT RESPONDED THAT ACCOUNTABILITY INVOLVES ALL AS-
PECTS OF MNC ACTIVITY, EXTENDING BEYOND LIMITED CONCERNS
OF THE WP.

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5. BERNARD MADE POINT OF INFORMING GROUP THAT WHILE
AFL-CIO IS NOT A TUAC MEMBER, IT HAS FOLLOWED CLOSELY
TUAC'S WORK ON MNCS, ASKED TUAC TO INCLUDE A STATEMENT
BY AFL-CIO SECRETARY TREASURER LANE KIRKLAND IN TUAC'S
PAPER (REF C), AND IS IN "GENERAL AGREEMENT" WITH TUAC'S
PROPOSALS.

6. WHEN INTRODUCING SUBJECT OF MNCS AT THE APRIL 22

WP MEETING, THE SECRETARIAT POINTED OUT:

A. THE WP ON INDUSTRIAL RELATIONS WOULD NOT MAKE THE DECISION WHETHER OR NOT THE OECD WOULD ISSUE GUIDELINES. IT COULD, HOWEVER, EXPRESS THE WP'S OPINION RE ADVISABILITY OF INCLUDING INDUSTRIAL RELATIONS IF GUIDELINES OR A CODE ARE AGREED UPON IN THE IME.

B. IT WOULD BE UNREALISTIC TO EXPECT THE WP TO REACH AGREEMENT ON RECOMMENDED GUIDELINES ON INDUSTRIAL RELATIONS AND EMPLOYMENT AT THIS MEETING; THEREFORE,
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MEETING SHOULD BE LIMITED TO DISCUSSION OF THE SUGGESTED GUIDELINES PREPARED BY THE SECRETARIAT AND THE ISSUES INVOLVED;

C. THE SECRETARIAT WOULD, AT THE CONCLUSION OF THE MEETING, PREPARE A GENERAL REPORT INDICATING AREAS OF AGREEMENT WITHIN THE WP CONCERNING SUGGESTED GUIDELINES, AND EXPAND ON THIS IN AN ORAL REPORT TO THE IME. THE ORAL REPORT WOULD SPECIFY THE VARIOUS POSITIONS TAKEN IN DEBATE.

7. NONE OF THE DELEGATIONS OPPOSED MNE GUIDELINES. STRONGEST SUPPORT FOR COMPREHENSIVE GUIDELINES CAME FROM SWEDEN AND THE UK WITH BELGIUM REFLECTING THEIR VIEWS. (NETHERLANDS WAS IN THE MIDDLE OF THE ROAD.) EXCEPT FOR US, MOST DELEGATIONS WITH RESERVATIONS CONCERNING THE SUGGESTED GUIDELINES (REF B REVISED APRIL 22) WERE NOT VERY ACTIVE IN THE DEBATE. (IT APPEARED THAT CONCERN FOR THE POLITICAL IMPACT ON LABOR UNIONS BACK HOME KEPT NEGATIVE COMMENT TO A MINIMUM. THOSE WITH RESERVATIONS WERE CONTENT TO LET THE US LEAD AND GAVE LITTLE OPEN SUPPORT.)

AS DEBATE PROGRESSED, MOST DELEGATES APPEARED TO FAVOR THE UK REVISION OF SECRETARIAT'S PROPOSED GUIDELINES. THE UK WAS CLEARLY IN FAVOR OF GUIDELINES SIMILAR TO THOSE SUGGESTED BY SECRETARIAT AND ATTEMPTED TO FIND A FORMULA TO MEET SOME OF THE MORE IMPORTANT OBJECTIONS. THE SECRETARIAT PROPOSALS, AS REVISED BY THE UK, RECOMMENDED THAT MNCS:

A. GRANT RIGHTS OF UNION ORGANIZATION AND COLLECTIVE BARGAINING;

B. PROVIDE EMPLOYEES AND THEIR REPRESENTATIVES INFORMATION ABOUT MNC PLANS AND PERFORMANCE IN ADDITION TO PUBLISHED INFO FOR EFFECTIVE COLLECTIVE BARGAINING;

C. FOLLOW GOOD INDUSTRIAL RELATIONS PRACTICES AND OBEY ILO CONVENTIONS RATIFIED BY HOST COUNTRY;

D. TRAIN, UP-GRADE AND MAXIMIZE EMPLOYMENT OPPORTUNITIES FOR DOMESTIC LABOR FORCE;

E. RESPOND TO UNION DEMANDS FOR PARTICIPATION IN DECISIONS OF MAJOR IMPORTANCE.

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8. US DELEGATION POSITION WAS THAT IF OECD DOES ISSUE GUIDELINES, THEY MUST INCLUDE STATEMENT ON INDUSTRIAL RELATIONS, AND WORKING PARTY ON INDUSTRIAL RELATIONS SHOULD HAVE PRINCIPAL RESPONSIBILITY FOR PREPARING SUCH. HOWEVER, USDEL NOTED THAT WP STUDY AND DEBATE HAD NOT REACHED POINT WHERE IT WAS POSSIBLE TO PREPARE GUIDELINES WITH ANY DEGREE OF SPECIFICITY, AND ACCEPTANCE OF SECRETARIAT'S PROPOSAL AT THIS STAGE COULD PREJUDICE FUTURE WORK AND MIGHT DO MORE HARM THAN GOOD. THUS US PROPOSED THE SECRETARIAT'S PRELIMINARY GUIDELINES BE REPLACED WITH THE THREE GENERAL GUIDELINES IN REF D BUT NOTED THIS DID NOT PREJUDICE THE US POSITION CONCERNING FINAL RECOMMENDATIONS. (SECRETARIAT ISSUED REVISED GUIDELINES DISCUSSED PARA 7 ABOVE THE MORNING THIS SUBJECT WAS DISCUSSED. AS A MATTER OF PRINCIPLE US DELEGATE RESTRICTED HIS OFFICIAL COMMENTS TO THE GUIDELINES IN ANNEX E, REF B. HE THEN GAVE HIS PERSONAL, UNOFFICIAL REACTION TO THE REVISED GUIDELINES RELATING THEM TO THE US PROPOSAL, AND NOTED THAT WHILE THE SECRETARIAT'S REVISION HAD IMPROVED SOME GUIDELINES, IT HAD ADDED OTHERS WHICH WERE UNACCEPTABLE. THEREFORE, THE US-SUGGESTED GUIDELINES CONSTITUTED THE ONLY

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APPROACH TO WHICH THE US COULD AGREE AT THIS MEETING.)

9. DELEGATES FREQUENTLY COMMENTED ON THE NEED FOR MORE STUDY. THE US DEL EMPHASIZED THAT IF THE SPECIAL STATUS OF MNCS HAD PUT LABOR AT A DISADVANTAGE IN DEALING WITH MNCS, THE WP'S OBJECTIVE SHOULD BE TO SUGGEST GUIDELINES TO RESTORE THE PROPER BALANCE OF POWER. THIS REQUIRES A CONCERN NOT ONLY WITH THE QUESTION OF THE SPECIAL PROBLEMS POSED BY MNCS BUT THE DEGREE TO WHICH THEIR SPECIAL STATUS HAS CHANGED THE BALANCE OF POWER AT THE BARGAINING TABLE. THE POSITION OF THE US IS THAT THE WP SIMPLY DOES NOT HAVE THIS INFORMATION.

10. THE ISSUES RECEIVING MOST ATTENTION WERE: A) INFORMATION REQUIREMENTS TO BE PLACED ON MNCS; B) CONFLICT WITH NATIONAL LAW THAT MIGHT BE CAUSED BY REQUIRING MNCS TO ADHERE TO ILO CONVENTIONS AND RECOMMENDATIONS; C) THE DANGER THAT SOME GUIDELINES MIGHT DISCRIMINATE IN FAVOR OF DOMESTIC FIRMS.

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ANOTHER MAJOR ISSUE WAS WHETHER THE GUIDELINES SHOULD BE BINDING OR NON-BINDING. THOSE STRONGLY FAVORING GUIDELINES GENERALLY FAVORED BINDING ONES. THE US AND OTHER DELEGATIONS WITH RESERVATIONS ASKED THAT THEY BE NON-BINDING. NO CONSENSUS EMERGED. CONCERN WAS EXPRESSED BY THE ILO REPRESENTATIVE AND A NUMBER OF DELEGATES THAT IF THE OECD ISSUED GUIDELINES BEFORE THE ILO FINISHED ITS WORK ON MNCS, THE OECD AND ILO COULD ISSUE CONFLICTING GUIDELINES.

11. ALL DELEGATIONS AGREED THAT SECRETARIAT SHOULD CONTINUE THE STUDY OF MNCS AS A PRIORITY ITEM IN THEIR WORK PROGRAM. A SMALL EXPERTS GROUP IS TO BE APPOINTED FOR THIS PURPOSE. THE ISSUES WHICH THE SECRETARIAT SUGGEST-

ED THE EXPERTS GROUP ADDRESS IN STUDYING MNC INDUSTRIAL RELATIONS PROBLEMS RECEIVED ONLY LIMITED DISCUSSION. US DEL OBSERVED THAT IN SPITE OF THE FACT THAT THE SECRETARIAT INDICATED THE EXPERTS GROUP IS TO CONCENTRATE ONLY ON ALLEGED ISSUES "...WHICH CAN BE SPECIFICALLY ATTRIBUTED TO MULTINATIONALS AS DISTINCT FROM DOMESTIC ENTERPRISES", FIVE OF THE ISSUES LISTED BY THE SECRETARIAT DID NOT MEET THIS CRITERION. (ISSUES OBJECTED TO ARE LISTED IN SME/IR/75.2, PARAGRAPH 14, SUB-ITEMS A, D, H, I, AND K.) POINT WAS MADE THAT NONE OF THESE ARE ISSUES UNIQUE TO THE OPERATION OF MNCS AND THEIR INCLUSION WOULD ONLY CLOUD THE REAL ISSUES. US DEL REQUESTED THEY BE DROPPED FROM CONSIDERATION. SECRETARIAT AGREED. US DEL ALSO SUGGESTED THE DIFFICULT PROBLEM OF THE OBLIGATIONS OF HOST COUNTRIES TO MNCS NOT BE EXCLUDED FROM THE CONSIDERATION OF THE EXPERTS GROUP. TURNER

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